



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

March 30, 1998

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

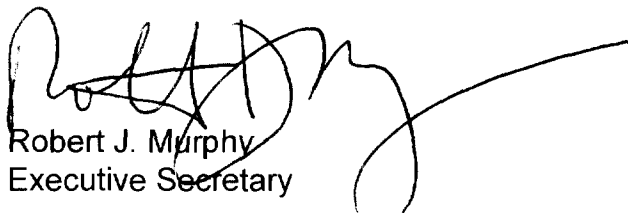
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Re: Petition of the Connecticut Department of Public Utility Control for
Amendment to Rulemaking

Attached please find the Petition of the Connecticut Department of Public Utility Control (CTDPUC) requesting the Federal Communications Commission amend its August 8, 1996 Second Report and Order and Memorandum Opinion and Order in FCC 96-333, In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas; Administration of the North American Numbering Plan; and Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, relative to area code relief, specifically, service specific overlays.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL


Robert J. Murphy
Executive Secretary

attachment

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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Petition of the)
Connecticut Department of Public Utility Control)
for Amendment to Rule Making)

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PETITION OF THE CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL
FOR AMENDMENT TO RULEMAKING

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

March 30, 1998

Connecticut Department of
Public Utility Control

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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Petition of)
the Connecticut Department of Public Utility Control)
for Amendment to Rule Making)

PETITION OF THE CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL
FOR AMENDMENT TO RULEMAKING

I. Introduction and Summary

As discussed in greater detail below, the Connecticut Department of Public Utility Control (CTDPUC) hereby petitions the Federal Communications Commission (FCC or Commission) pursuant to 47 CFR § 1.401 to amend its August 8, 1996 Second Report and Order and Memorandum Opinion and Order in FCC 96-333, In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Area Code Relief Plan for Dallas and Houston, Ordered by the Public Utility Commission of Texas; Administration of the North American Numbering Plan; and Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois (Second Report and Order), relative to area code relief, specifically, service specific overlays.

Since October 1996, CTDPUc has been investigating telephone numbering issues and area code relief.¹ In particular, immediately following the permanent implementation of the 860 area code in Connecticut, the Southern New England Telephone Company (SNET), Connecticut's current telephone number administrator, informed CTDPUc that the State of Connecticut was potentially facing telephone number exhaust in the 860 area code. SNET attributed the potential exhaust of the 860 and 203 area codes to the growth in local competition forcing the opening of new NXXs for every new provider for every rate center.² Docket No. 96-11-10, DPUC Review of Management of Telephone Numbering Resources in Connecticut, was initiated by CTDPUc to manage, on a generic basis, the assignment of telephone numbers in Connecticut. A copy of the CTDPUc's February 18, 1998 Decision in Docket No. 96-11-10 (Decision) is appended hereto as Attachment 1.

CTDPUc has directed the Connecticut telecommunications industry to undertake certain measures to delay the exhaust of NXXs in the 860 and 203 area codes. These measures include approval of SNET's consolidation of its current toll rate centers from 115 to 86, as well

¹ The CTDPUc's investigation followed the implementation of a geographic split ordered in the March 28, 1995 Decision in Docket No. 94-11-21, Application of the Southern New England Telephone Company to Investigate Alternative Methods for Providing Area Code 203 Relief.

² Currently there approximately 35 competitive local exchange carriers (CLEC) certified to provide local service in Connecticut. Per CTDPUc directive, each statewide local service facilities based provider is required to match its local calling areas and in order to do so, they must request a new NXX for each of Connecticut's rate centers in the state.

as directing Connecticut telecommunications service providers³ to return any unopened NXX codes and any unopened 1,000 number blocks to SNET so that they may be pooled for use by all service providers.⁴

CTDPUC also directed that a Connecticut telecommunications industry task force be established to oversee the state's telephone number resources and be responsible for the establishment of the terms and conditions under which NXX codes and telephone numbers would be distributed amongst various service providers. CTDPUC has further directed the investigation of, and recommendations to CTDPUC of other measures to conserve telephone number resources. In the February 18, 1998 Decision, CTDPUC also required that local number portability (LNP)⁵ be utilized to delay the potential exhaust of telephone numbers. In the event that LNP is not deployed as expected, or is not deployed in certain areas of Connecticut, CTDPUC directed that interim number porting techniques be utilized to address telephone number exhaust.⁶

Additionally, CTDPUC directed that the telecommunications task force investigate and report to the CTDPUC the industry actions and associated time period required to "take back" wireless telephone numbers while moving all existing wireless end user customers to a new

³ Local exchange carriers (LECs), commercial mobile radio service (CMRS) providers, (e.g., cellular service providers, personal communications service (PCS) providers and pagers) and CLECs.

⁴ February 18, 1998 Decision, Docket No. 96-11-10, pp. 36-38.

⁵ SNET will begin implementation of Local Number Portability in the Hartford Metropolitan Statistical Area (MSA) by April 1, 1998 and the New Haven MSA by October 1, 1998.

⁶ February 18, 1998 Decision, Docket No. 96-11-10, pp. 38-40.

statewide wireless NPA. The industry task force will also be required to investigate and report its findings concerning the movement from 7-digit dialing to 10-digit dialing as required by the implementation of any area code overlay. Lastly, CTDPUc directed the industry task force to investigate the effects the implementation of a service specific overlay would have relative to forming a barrier to entry for companies wanting to offer telecommunications services in Connecticut.⁷

It is CTDPUc's order to the telecommunications industry task force to investigate a service specific overlay that forms the basis of the instant petition to the Commission. As discussed in greater detail below, CTPUC believes that given the current nationwide shortage of NPAs and the lack of competition between the wireline and wireless industries, it is appropriate for the FCC to revisit its decision against service specific overlays last addressed in its Second Report and Order, relative to area code relief, specifically, service specific overlays. Accordingly, CTDPUc hereby petitions the Commission to amend its previous rulemaking concerning service specific overlays.

II. Discussion

CTDPUc petitions the FCC to revisit its Second Report and Order regarding service specific area codes because of the level of telecommunications competition currently experienced within the wireline

⁷ Id., pp. 41 and 42.

industry, the level of competition experienced within the wireless industry, and the lack of competition experienced between the two industries in Connecticut. CTDPUUC recognizes the underlying considerations initially discussed by the FCC in the Ameritech Order and further defined in the Second Report and Order.⁸ CTDPUUC concurs with the FCC's requirement that the presence of any one of the following elements (i.e., exclusion, segregation or take-back) should cause the prohibition of the implementation of a service specific overlay plan. However, such a prohibition should only occur when it has been determined that competition exists between telecommunications industries (i.e., wireline and wireless). Absent competition, application of the FCC's requirements unnecessarily dooms the implementation of a service specific overlay.

CTDPUUC has been investigating area code relief since October 1996. During public hearings held in Docket No. 96-11-10, the overwhelming suggestion made by members of the general public was to

⁸ In the Ameritech Order, the FCC stated that the presence of any one of the following elements including: (1) exclusion; (2) segregation; or (3) take-back, renders a service specific overlay plan unacceptable and violative of the Communications Act. Additionally, the FCC further clarified the Ameritech Order by prohibiting all service-specific and technology-specific overlays that do not further the federal policy objectives of the North American Numbering Plan (NANP). According to the FCC, they hinder entry into the telecommunications marketplace by failing to make numbering resources available on an efficient, timely basis to telecommunications services providers. Furthermore, the FCC concluded that service-specific overlays would provide particular industry segments and groups of consumers an unfair advantage. Moreover, the FCC has concluded that administration of the NANP should be technology neutral; service specific overlays that deny particular carriers access to numbering resources because of the technology they use to provide their services are not technology neutral. Second Report and Order, ¶305. Relative to the Ameritech Order, the FCC stated that three facets of Ameritech's plan – its exclusion, segregation, and take-back proposals – would each impose significant competitive disadvantages on the wireless carriers, while giving certain advantages to wireline carriers. Ameritech Order, ¶27.

assign area codes to specific telecommunications services and/or technologies. In particular, Connecticut residential and business consumers requested CTDPUc to introduce a service specific overlay assigning a separate and distinct NPA to the wireless industry, regardless of the Commission's previous orders.

Following its review of FCC 95-19, In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech – Illinois, Released January 23, 1995 (Ameritech Order) and the Second Report and Order, CTDPUc concludes that the underlying consideration made by the FCC when initially addressing service specific overlays was the impact that implementation of a service specific overlay would have on telecommunications competition between the wireline and wireless industries. For example, as discussed in the Ameritech Order, the FCC stated that:

We find Ameritech's "exclusion" and "segregation" proposals would confer significant competitive advantages on the wireline companies in competition with paging and cellular companies, and in particular, Ameritech itself. Similarly, Ameritech's "take-back proposal" would confer a significant competitive advantage on wireline carriers that would be permitted to retain their NPA 708 numbers because customers of those carriers would be able to avoid the inconvenience associated with number changes. On the other hand, paging and cellular companies would be placed at a distinct disadvantage by the "take-back proposal" because their customers would suffer the cost and inconvenience of having to surrender existing numbers and go through the process of reprogramming their equipment, changing over to new numbers, and informing callers of the

new number.

Ameritech Order, ¶27.

Similarly, in its Second Report and Order, the Commission concluded that segregation of particular types of telecommunications services or particular types of telecommunications technologies in discrete area codes "would unduly inhibit competition." Second Report and Order, ¶285. Additionally, the Commission concluded that service specific overlays would provide an unfair advantage to certain service providers and their respective customers. *Id.*, ¶305.

CTDPUC respectfully disagrees with the FCC. CTDPUC shares the Commission's concern relative to promoting competition amongst various service providers, including competition between service technologies (i.e., wireline and wireless). Competition is present in the wireline telecommunications industry in Connecticut. Since 1994, CTDPUC has endeavored to enhance the level of telecommunications competition in the Connecticut marketplace. Much of CTDPUC's energies since 1994 have been expended investigating and deciding various issues such as interconnection, resale and unbundling, all of which predate those actions required by the Telecommunications Act of 1996. Through Connecticut statutes and CTDPUC Decisions, telecommunications competition has developed and prospered as evidenced by the approximately 300 certificated carriers authorized to provide long distance services in Connecticut, 40 of which have also been

certificated to provide local exchange service. Clearly, CTDPUK has developed sufficient experience to determine which policies will promote telecommunications competition and which policies will not.

In Connecticut, there also appears to be some level of competition within the wireless market as evidenced by the number of wholesale cellular service providers and the large number of retailers offering cellular and paging services. Additionally, the recent entry of personal communications services' providers into the wireless market should only further enhance and intensify competition in the Connecticut marketplace.

Nevertheless, despite CTDPUK's policies and actions to promote telecommunications competition, no competition between the wireline and wireless industries currently exists. Nor does it appear that competition between the two industries will exist in the very near future. To the best of CTDPUK's belief and knowledge, this lack of competition between the two industries appears to be consistent across the country. In a recent proceeding before the CTDPUK, Thomas C. Blum, Director, Government Affairs, Bell Atlantic Mobile (BAM) testified that BAM did not provide competitive local exchange service.⁹ (emphasis added). Similarly, throughout Docket No. 97-07-12, BAM repeatedly argued before CTDPUK that federal law specifically prohibits states from assessing CMRS providers for lifeline programs unless cellular service was found to

⁹ CTDPUK Docket No. 97-07-12, DPUC Review of the Connecticut Lifeline Program, Tr., 12/15/97, p. 101.

be a substitute for landline service in a substantial portion of the state. BAM also stated that because there has been no such finding in Connecticut CTDPUc could not assess it and other CMRS providers for lifeline funding.¹⁰ Due to the Omnibus Budget Reconciliation Act of 1993 and the uncertainty concerning the applicability of §254 of the Telcom Act, commercial mobile radio service providers have not contributed to various universal service programs, telecommunications relay service programs nor have they been held to the same requirements that have been imposed on wireline carriers. In CTDPUc's opinion, substitutability is synonymous with competition. Absent substitutability, there is no competition further supporting CTDPUc's belief that competition between the two industries simply does not exist.

Similarly, while the wireline industry has been required to deploy LNP during 1997 and 1998, CMRS providers have been granted an extension, currently now scheduled to be completed by June 30, 1999, before fulfilling the same requirement.¹¹ In order to promote competition between telecommunications carriers and their respective industries, all service providers must be treated in a nondiscriminatory manner with all burdens evenly distributed. As evidenced above, this is not the case. Until this nondiscriminatory treatment is abrogated, the FCC's desired

¹⁰ See for example, Docket No. 97-07-12, BAM Brief, p. 1.

¹¹ Moreover, the Department is aware that the Commission has recently issued for public comment a request by the Cellular Telecommunications Industry Association for an extension of the wireless deadline until March 31, 2000.

results for competition between wireline and wireless carriers will not materialize. Until such time as competition has been determined to exist between these industries, the Commission's concern of anticompetitive effects arising from a service specific overlay should not materialize. Additionally, absent competition, service specific overlays can not offer one telecommunications industry an advantage over another.

Lastly, CTDPU is aware of a recent proposal made by certain cellular service providers to trial the imposition of charges on wireline end users for calls made to cellular subscribers. If this cellular pricing proposal is eventually adopted, assignment of a specific area code to cellular service (and other wireless services) would alert wireline end users to the fact that they may incur a charge when making a call to a cellular number as currently is the case for telephone calls made to 900 service numbers.

As the Commission has based its decision to prohibit service specific overlays on competition in the telecommunications marketplace, a determination should first be made as to whether competition exists before applying the Commission's three-part test (i.e., exclusion, segregation, or take-back). Area code relief is needed immediately and since competition does not currently exist between the industries, service specific overlays should be permitted.

III. Conclusion

Area code relief is necessary and Connecticut consumers have

spoken for implementation of a service specific overlay. CTDPUc questions the Commission's concern for competition between the wireline and wireless industries when no evidence supporting competition between the two industries exists now or is there any evidence that it will occur in the future. Additionally, CTDPUc seriously questions the impact implementation of service specific area overlays would have absent demonstrated competition between the wireline and wireless industries. The FCC has stated that "states are uniquely situated to determine what type of area code relief is best suited to local circumstances. Certain localities may have circumstances that would support the use of area code overlays." Second Report and Order, ¶283. CTDPUc has promoted competition since 1994 and has gained sufficient knowledge and experience. Implementation of a service specific overlay will not at this time, delay or hinder competition between the wireline and wireless

industries. Therefore, in light of the above, CTDPUC herein requests the FCC to reconsider its policy concerning the assignment of service specific overlays.

Respectfully submitted,

CONNECTICUT DEPARTMENT OF PUBLIC
UTILITY CONTROL

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

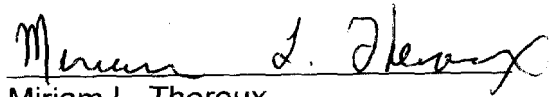
John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

March 30, 1998

Connecticut Department of
Public Utility Control
Ten Franklin Square
New Britain, CT 06051

CERTIFICATION

A handwritten signature in black ink, appearing to read "Miriam L. Theroux", written over a horizontal line.

Miriam L. Theroux
Commissioner of the Superior Court



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 96-11-10 DPUC REVIEW OF MANAGEMENT OF TELEPHONE
NUMBERING RESOURCES IN CONNECTICUT**

February 18, 1998

By the following Commissioners:

Jack R. Goldberg
John W. Betkoski, III
Donald W. Downes

DECISION

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DECISION

I. INTRODUCTION

A. SUMMARY

Pursuant to a request from the Southern New England Telephone Company (SNET), a technical meeting was convened to discuss numbering issues relating to the exhaust of telephone numbers in both the 860 and 203 area codes. The potential methods of implementing additional area codes include the geographic split and the area overlay. The geographic split will create two new area codes in addition to the 203 and 860 area codes dividing each of the existing area codes and assigning a new Numbering Plan Area (NPA) for each new area. An overlay provides for an overlay of a new NPA for each existing NPA once the numbers in the existing NPA have been exhausted.

Prior to the implementation of either one of the area code options, the Department determined it appropriate to order various number saving measures, since these measures should delay number exhaust beyond the estimated 1999 exhaust dates. These number saving measures include consolidation of rate centers, number pooling, permanent number portability and interim number portability. Consolidation of rate centers from 115 to 86 has already occurred and should help extend the number exhaust date. Number pooling involves requiring all telecommunications providers, including SNET, to return all unopened blocks of numbers to SNET as number administrator. Assignment of numbers will be limited to blocks of 1000 numbers until the block is exhausted. permanent number portability will allow customers to retain their existing numbers when changing service providers. Implementation of permanent number portability will be implemented in the Hartford Metropolitan Statistical Area (MSA) on April 1, 1998, and will be introduced into the New Haven MSA on October 1, 1998. Since permanent number portability may not be available in other areas, the Department will utilize interim number portability in those areas if available numbers are exhausted.

B. BACKGROUND OF THE PROCEEDING

By the March 28, 1995 Decision in Docket No. 94-11-21, Application of the Southern New England Telephone Company to Investigate Alternative Methods for Providing Area Code 203 Relief, the Department of Public Utility Control (Department) accepted as its Decision, a stipulated agreement (Stipulation) endorsing a geographic split and providing for a permissive calling period.¹ Specifically, the geographic split placed New Haven and Fairfield counties in one area code and the Hartford, Litchfield,

¹ The Stipulation was signed by SNET, New York Telephone Company; Woodbury Telephone Company (Woodbury Telephone); Springwiche; the then Metro Mobile Companies of Hartford, New Haven, New London, Fairfield County; and Windham; Nextel Communications, Inc.; the then Litchfield Acquisition Corporation; Paging Network, Inc.; and Connecticut Telephone and Communications Systems, Inc.

Middlesex, New London, Tolland and Windham counties in the other. The Stipulation did not address which area would receive the 860 area code.

In the Decision in Docket No. 94-11-21, the Department determined that a geographic split would best serve the needs of the state at that time. The Department also found that since a change in area codes would have the greatest impact on businesses, and the majority of the businesses in Connecticut were located in the New Haven and Fairfield areas, assigning the new 860 area code to the Hartford, Litchfield, Middlesex, New London, Tolland and Windham areas would minimize the impact of the change and therefore was in the public interest. Consequently, the Department required that the 203 area code be retained in the Fairfield and New Haven areas, while the Hartford, Litchfield, Middlesex, New London, Tolland and Windham areas receive the new 860 area code.² Accordingly, SNET was directed to begin the process necessary to initiate the permissive dialing period for all services on August 28, 1995. The permissive dialing period was to be begin on August 28, 1995 and conclude with the permanent implementation of the geographic split on October 4, 1996. March 28, 1995 Decision, Docket No. 94-11-21, pp. 1, 5-7, 9, Attachment A, p. 2.

By letter dated October 7, 1996, SNET requested that the Department schedule a technical meeting to discuss numbering issues. In particular, SNET requested that the Department conduct a technical meeting to discuss among other things, the potential exhaust of the 860 NPA. According to SNET, Connecticut was potentially facing exhaust of the 860 area code. SNET stated that each statewide local service facilities-based provider is required to match its local calling areas and in order to do so, they must request a new NXX for each of the 115 rate centers in the state. SNET claimed that competitive local exchange carrier (CLEC) requests for statewide codes would use 115 unassigned central office codes even though actual customer utilization may be significantly lower. SNET also claimed that four statewide requests would exhaust the new NXXs that were created in the new 860 area code. SNET October 7, 1996 Letter to the Department, p. 1.

During a Technical Meeting conducted in Docket No. 94-11-21 on November 12, 1996, SNET stated that the telephone company could not provide a time period as to when the NXXs would exhaust in the 860 area code. According to SNET, unlike in the past when telephone numbers or NXXs were introduced for growth, local competition is forcing the opening of new NXXs for every new provider for every rate center. Docket No. 94-11-21, Tr. 11/12/96, p. 164. At the conclusion of the November 12, 1996 Technical Meeting, SNET was directed to request from all certified CLECs, cellular and personal communications services (PCS) companies their respective forecasts for NXX codes for the November 1996 - December 1997 time period. It was also decided during

² The Town of Sherman, which is located in Fairfield County, was assigned the 860 area code because it was currently part of the New Milford exchange. To transfer Sherman to another exchange in Fairfield County would have required a seven digit telephone number change for approximately 2,000 telephone subscribers. The Department also approved Woodbury Telephone's request to retain the entire Woodbury service territory in the 203 area code because it would minimize customer confusion and the impact on business customers in its serving area. March 28, 1995 Decision, Docket No. 94-11-21, p. 5.

the November 12, 1996 Technical Meeting that the Department open the instant docket to manage, on a generic basis, the assignment of telephone numbers in Connecticut. *Id.*, pp. 202 and 203.

On June 27, 1996, the Federal Communications Commission (FCC) adopted its First Report and Order and Further Notice of Proposed Rulemaking (First Report & Order) in CC Docket No. 95-116, implementing the requirement under §251(b) of the Communications Act of 1934, as amended, that all local exchange carriers offer number portability in accordance with requirements prescribed by the FCC. In the First Report & Order, the FCC directed the North American Numbering Council (NANC), a federal advisory committee, to select one or more independent, non-governmental entities that are not aligned with any particular telecommunications segment, to serve as local number portability administrator(s) (LNPA). The FCC also directed the NANC to make recommendations regarding the duties of LNPAs, the location of regional databases, and technical specifications for the regional databases.

On May 1, 1997, the NANC forwarded its recommendations to the FCC in the following areas: (1) what party or parties should be selected as LNPAs; (2) whether one or multiple LNPAs should be selected; (3) how the LNPAs should be selected; (4) specific duties of the LNPAs; (5) geographic coverage of the regional databases; (6) technical standards, including interoperability standards, network interface standards, and technical specifications, for the regional databases; (7) the sharing of numbering information between the North American Numbering Plan Administrator and the LNPAs; and (8) the future role of the NANC with respect to local number portability issues.

NANC ultimately recommended that Lockheed Martin IMS be selected as the LNPA for the Northeast Region database. Pursuant to the FCC's May 2, 1997 Public Notice DA 97-916, a state had 60 days from the release date of the notice to notify its Common Carrier Bureau and the NANC that it does not wish to participate in the regional database system for number portability. During this proceeding, the parties indicated their support for NANC's recommendations and the State's participation in a regional database system. See Southern New England Telephone Company May 22, 1997 Written Comments, pp. 7-10 and AT&T Communications of New England and Cox Connecticut Telecom, LLC May 22, 1997 Written Comments, pp. 11-13.

By its June 18, 1997 Interim Decision in this Docket, the Department determined that participation in the Northeast Regional database would minimize a duplication of time and resources that would be required to create a separate Connecticut-specific LNP database. The Department also found that a regional approach would also result in a database system that should be in compliance with the FCC's long-term number portability performance requirements ensuring compatibility and consistency on a regional and national basis. Consequently, the Department indicated its support to participate in a regional LNP database.³

³ OCC states that utilizing the services of Lockheed as the NANPA will ensure compatibility and consistency on a regional and national basis while minimizing duplication of time and resources. OCC also states that it is vital to the continued evolution of the competitive paradigm in Connecticut, as well

C. CONDUCT OF THE PROCEEDING

By Notice of Hearing dated May 15, 1997, public hearings were conducted on May 27, 1997, at the Department's offices, Ten Franklin Square, New Britain, Connecticut 06051. By Notice of Hearing dated July 29, 1997, the hearing was continued to August 7, 1997 and continued to September 11, 1997 at which time it was canceled. By Notice of Continued Hearing dated August 27, 1997, hearings were conducted for purposes of receiving public comment only on September 18, 1997, Room G-2, New Haven Hall of Records, 200 Orange Street, New Haven, Connecticut; September 25, 1997, Windham Town Hall, 979 Main Street, Willimantic, Connecticut; October 7, 1997, Joseph Cone Room, Greenwich Town Hall, 101 Field Point Road, Greenwich, Connecticut; October 9, 1997, Legislative Office Building, Room 1E, Hartford, Connecticut; October 16, 1997, Council Chambers, Danbury City Hall, 155 Deerhill Avenue, Danbury, Connecticut; and October 21, 1997, Council Chambers, New London City Hall, 181 State Street, New London, Connecticut.

By letter dated November 10, 1997, SNET requested the Department reopen this docket for the limited purpose of introducing evidence on the North American Numbering Council selection of Lockheed Martin IMS to serve as the North American Numbering Plan Administrator (SNET Request). On November 17, 1997, the Department issued a notice soliciting public comment on the SNET Request.

The Department issued a Draft Decision in this docket on December 8, 1997. All parties and intervenors were provided an opportunity to file written comments and to present oral argument on the Draft Decision. Oral Argument was held on January 6, 1998.

Based on the written exceptions submitted and oral argument presented by parties and intervenors in this proceeding, the Department reissued a Draft Decision in this docket on January 29, 1998.

D. PARTIES AND INTERVENORS

The following were designated as parties to this proceeding: Office of Consumer Counsel, Ten Franklin Square, New Britain Connecticut, 06051; the Southern New England Telephone Company, 227 Church Street, New Haven, Connecticut 06510; the New York Telephone Company, 1095 Avenue of the Americas, New York, New York 10036; Woodbury Telephone Company, 299 Main Street, South Woodbury,

as nationally, that all participants have confidence in the independence of the administration of one of the most crucial resources in the telecommunications industry, telephone numbers. Accordingly, OCC supports the FCC's affirmation of NANC's selection of Lockheed as the NANPA. OCC November 26, 1997 Comments, p. 4. Similarly, Sprint Spectrum (Sprint) offered its support of Lockheed Martin IMS as the North American Numbering Plan Administrator. Sprint believes that initiating and developing area code relief plans is a function appropriately performed by Lockheed Martin, especially given that numbers are national resources, and it helps to remove the potential for bias in administration and planning. Sprint December 3, 1997 Comments, p. 1.

Connecticut 06798-0479; MCI Telecommunications Corporation, One International Drive, Rye Brook, New York 10573-1095; Crowell & Moring, 1001 Pennsylvania Avenue, NW, Washington, DC 20004-2505; and Paging Network, Inc., 1200 19th Street, N.W., Washington, DC 20036. Cox Connecticut Telcom, LLC, c/o Silverstone & Koontz, PC, 227 Lawrence Street, Hartford, Connecticut 06106 requested and was granted party status. Bell Atlantic Mobile; Brooks Fiber; Nextel Communications, Inc.; Springwich Cellular, L.P.; Litchfield Cellular; and Message Center Beeper were designated intervenors to this proceeding.

E. PUBLIC COMMENT

Between September 18, 1997 and October 21, 1997, the Department conducted six hearings for purposes of receiving comments from the general public concerning the addition of new area codes in Connecticut. The hearings were attended by 31 consumers, of which 21 spoke. The Department also received four letters from consumers expressing their views on area codes. During these hearings, the overwhelming comment made by members of the public was that area codes should be assigned based on the use of a specific service or device (i.e., service specific overlays). See for example the testimony of Derby Mayor Alan Schlesinger, Tr. 10/16/97, pp. 819-825. See also the comments of Paul Zell, Tr. 10/10/97, pp. 788-791 and Steven Edwards, *Id.*, p. 792-794.⁴

A large number of those speaking also offered comments supporting the implementation of a geographic split, including Senator Melodie Peters from the 20th District and Representative Janet Lockton from the 149th District. Senator Peters supported the Department's implementation of an area code relief measure that would cause the least disruption to residential and business customers. According to Senator Peters, a geographic split would cause the least disruption to consumers and urged the Department to consider the impact any area code relief measure would have on the consumer. Tr. 10/21/97, pp. 908-913. Representative Lockton also supported the implementation of a geographic split, and the implementation of several area codes in the state at one time so that an ample supply of telephone numbers would be available for several years. Tr. 10/7/97, p. 750. Other members of the public supported the implementation of a geographic split. For example, Robert Tuthil while supporting implementation of a geographic split, also recommended that instead of deploying two new area codes, that four to six area codes be deployed to provide a sufficient level of telephone numbers for future use. Tr. 10/7/97, pp. 746-750. Additionally, while Joseph DaSilva, on behalf of Danbury Mayor Gene F. Eriquez, requested that the Department continue to leave the Danbury area code unchanged, supported a geographic split because it would be simpler and less confusing to the public. Tr. 10/16/97, pp. 833-835.

⁴ The Department notes that while these individuals supported a service specific overlay, they also were concerned with the cost their business would incur to print various materials to reflect the new area code. According to Mr. Zell, during the 203/860 area code split, his company incurred approximately \$830,000 to revise printed materials to reflect the new area code. Mr. Zell estimates that his business will experience costs of over \$1M to reprint its marketing materials, stationery, business cards and forms if the area code changes again. Tr. 10/10/97, pp. 788 and 789.

Lastly, Timothy J. Moynihan, President of the Greater Hartford Chamber of Commerce, urged the Department to consider the Hartford/Capital region in its area code deliberations and retain the existing 860 area code within the region. In support of his request, Mr. Moynihan cited the business costs associated with reprinting stationery, revising marketing materials and reprogramming of data and telephone systems. Mr. Moynihan also suggested that perhaps existing business populations within regions should be the determining factors in selecting which regions should retain existing area codes. Tr. 10/10/97, pp. 769-777.

II. PARTICIPANTS' POSITIONS

A. OFFICE OF CONSUMER COUNSEL (OCC)

OCC states that in spite of the fairly recent implementation of the 203/860 area code split, Connecticut faces an accelerated exhaust of NXXs in both area codes. OCC maintains that this proceeding illustrates the fact that no one is happy with the prospect of another number exhaust situation. OCC contends that not only would a telephone number exhaust essentially "stall" telecommunications in the state, competition would suffer, and any last-minute "fixes" would be more dangerous than those planned with advance time and debate. OCC opines that should Connecticut be required to confront another number exhaust situation, that all participants work together to implement the best long term alternative. OCC concludes that the Department must fashion a solution that will minimize the burdens consumers must bear.

OCC notes that no participant in this proceeding will benefit from number exhaustion in Connecticut and that consumers and industry participants will suffer some degree from any of the alternatives that must be implemented to resolve this problem. OCC believes that all solutions to the problem of number exhaust carry some degree of confusion and costs for consumers and industry participants. According to OCC, it cannot endorse a short-term fix that will require repeated implementation steps as NXXs continue to be consumed. Rather, it has sought to endorse a solution that will resolve the issue for many years to come at a minimum of frustration and difficulty for all concerned. OCC June 26, 1997 Brief, pp. 2 and 3; Reply Brief, p. 2.

While noting that various alternatives have been presented in this proceeding purporting to resolve the number exhaust situation, OCC believes that an efficient implementation of local number portability (LNP) in the Hartford and New Haven areas together with implementation of a distributed overlay will provide the most reasonable and least confusing alternative available. OCC also believes that the implementation of LNP may provide an answer for the exhaust situation in Connecticut because approximately 50% of the state's access lines will be LNP enabled at or around the date of exhaust in both of the current numbering plan areas (NPA). OCC comments that as was found in Maryland, reliance upon the successful implementation of LNP alone to resolve number exhaust is not realistic considering the complexity of the technology as well as the high level of industry cooperation necessary.

Therefore, OCC supports the concurrent implementation of a distributed overlay in both the 203 and 860 NPA, as assurance in the event LNP is not successfully implemented at the time of exhaust. According to OCC, implementing an overlay will assure consumers of little or no disruption for many years because LNP will be successful at some point in the next few years, thus delaying future area code exhausts. OCC maintains that the overlay will serve to provide a seamless introduction of new numbers as needed.

Regarding a geographic split, OCC argues that implementation of such would require the state now split in half, to be split into quarters, causing each area to become roughly 50% smaller than before. Additionally, 25% of the state's population would have to endure the disruption and expense of another area code change since October 1996.

OCC cautions the Department to be realistic in relying on the deployment of LNP to resolve the telephone number exhaust issue. OCC contends that there is a real danger that the federally-mandated dates could slip and implementation of LNP will not occur as expected and since it depends upon the development of a complex technology and industry cooperation in the face of intense national competition. Accordingly, OCC recommends that the Department implement an alternative that will assure Connecticut an adequate supply of telephone number resources. OCC notes that implementation of LNP together with an overlay will reduce the potential for anticompetitive results for the CLECs operating in Connecticut since their marketing plans will be the immediate beneficiaries of LNP, while the number of NXXs needed in the new overlay NPAs will be reduced through the use of LNP. OCC comments that it is not oblivious to the potential for anticompetitive results from the implementation of an overlay in the Connecticut telecommunications market, but in balance with customer confusion and frustration with the implementation of another geographic split following so soon after the implementation of 860 NPA, the overlay yields the best results for the state's consumers. OCC June 26, 1997 Brief, pp. 4-7.

While noting the possibility that LNP will resolve the current number exhaust situation without implementing a new dialing pattern, OCC maintains that the overlay will become necessary within the next few years even with a successful and timely implementation of LNP. OCC states that it is in favor of instituting 10- or 11-digit dialing in such an event. OCC contends that by attempting to preserve 7-digit dialing, there will be three dialing patterns to remember with no simple assurance for the consumer to recognize a local call from a toll call. According to OCC, while there will be educational steps needed to implement this change in dialing patterns, the implementation of 10- or 11-digit dialing will reduce the confusion for the foreseeable future by providing a clear differentiation between local and toll dialing. OCC opines that it is an appropriate time to introduce a streamlined dialing pattern sustainable, versus a program in which customers will be required to adjust piecemeal to three types of dialing methods to determine local versus toll calls, and little assurance that this dialing pattern will last but a few years before being split again. Therefore, OCC endorses the concept of introducing 10- or 11-digit dialing state-wide during the implementation of an overlay. OCC June 26, 1997 Brief, pp. 7-9.

OCC contends that one of the most disturbing aspects of this proceeding is the lack of interest on the part of the CLECs in bearing the cost and supplying the personnel to educate Connecticut consumers about the advent of competition and the impact resulting from the imposition of new area codes. OCC notes that there is no evidence in the record demonstrating any willingness on the part of any of the CLECs in this regard while they criticize SNET for an alleged failure to present evidence of content for an education effort. OCC also argues that the greatest education challenge is not the split versus overlay, or 7-digit versus 10-digit dialing, but rather answering consumers' questions concerning why they must again endure the imposition of two new area codes in such a short period of time. OCC believes that a substantive and informative approach to consumer education be developed by all involved in this process to address the concerns raised by the introduction of 10- and 11-digit dialing, two new area codes and the competitive marketplace. OCC urges the CLECs to develop an interest in participating in supporting the cost of supplying of personnel to educate Connecticut consumers about the advent of competition and the impact resulting from the imposition of new area codes. According to OCC, thus far, there has been no demonstration of any willingness on the part of any of the CLECs in this regard. OCC also urges the Department to remain involved in this process as implementation proceeds. OCC July 7, 1997 Reply Brief, pp. 6-9; OCC October 28, 1997 Brief, pp. 11-14.

Lastly, OCC argues that the survey sponsored by Cox Connecticut Telcom LLC, Cablevision Lightpath, AT&T, Teleport Communications Group and NECTA (collectively, the survey sponsors), was clearly biased toward their point of view favoring the implementation of a geographic split versus an area overlay. OCC states that while an objectively constructed and fairly administered survey might have been helpful in this proceeding, it is apparent that the area code survey does not fit this description. For example, OCC claims that under cross examination of the survey company witness, it was readily apparent that the pollster had no clear understanding of the basic definitions used in the survey, and this proceeding. OCC says it is difficult to understand how an average consumer, confronted with a lengthy set of complex questions could be realistically expected to fully comprehend the relationships between the various alternatives. OCC notes that the pollster admitted in cross examination that the criteria for determining whether a respondent was confused as to a definition or question was in part based on listening for "humming and hawing." OCC also notes that as an example during cross examination the witness evidenced little understanding of some of the ramifications of a geographic split versus overlay, relative to the required dialing patterns. OCC further noted the pollster's admission that prior surveys had resulted in confusion among respondents regarding the differences between an area overlay and geographic split, yet no changes to the relevant questions were made to the Connecticut poll. Additionally, OCC asserts that bias was shown by the survey's reference to the geographic split as "a method of adding new telephone numbers" while referring to the overlay as the "overlay system." OCC argues that it was also distinctly unfair for certain "clarifiers" to be available to "clarify" any confusion that might result from customers hearing the split definition while no such clarifiers were made available